

SUPREME COURT OF GEORGIA

Booth v. State

301 Ga. 678 (2017) · Decided August 14, 2017

SUMMARY

The Georgia Supreme Court affirmed Delroy T. Booth’s convictions for malice murder and other crimes arising from the death of Shantle Vason, while vacating the trial court’s merger of the felony murder counts. The court held that reading the indictment during the competency hearing was not error, that evidence of Booth’s prior assaults was admissible to show intent, and that the State’s closing argument concerning DNA evidence was permissible. The court did not remand for resentencing because the predicate felonies were not separately charged and no verdicts had been rendered on them.

CASE DETAILS

COURT	Supreme Court of Georgia
WRITING FOR THE COURT	Peterson, Justice
JURISDICTION	Georgia
DECIDED	August 14, 2017
DISPOSITION	other
PROCEDURAL POSTURE	Booth appealed his convictions for malice murder and other crimes after the trial court denied his amended motion for new trial. He challenged the competency-jury charge, the admission of other-acts evidence, the State's closing argument, and the treatment of the felony-murder counts.
STANDARD OF REVIEW	Unobjected-to jury-charge claims are reviewed for plain error under OCGA § 17-8-58 (b). Admission of other-acts evidence is reviewed for abuse of discretion. Closing argument is reviewed in context, and the prosecutor has wide latitude subject to the trial court's discretion. Sufficiency is independently reviewed under Jackson v. Virginia even when not challenged.
PRECEDENTIAL VALUE	published precedential opinion
PARTIES	Delroy T. Booth v. State

TOPICS

- criminal procedure
- evidence
- preservation of error
- appellate procedure
- standard of review

PRACTICE AREAS

criminal law

criminal procedure

evidence

appellate practice

QUESTIONS PRESENTED

1. Whether the trial court plainly erred by reading the indictment to the special jury during Booth's competency proceeding.
2. Whether evidence of Booth's prior assaults against former girlfriends was admissible under OCGA § 24-4-404 (b) to prove intent.
3. Whether the State made impermissible closing arguments by inferring that the relative completeness of DNA profiles indicated the relative timing of contributions.
4. Whether the trial court erred by merging the felony-murder counts into the malice-murder count and whether resentencing was required.

HOLDINGS

1. The trial court did not err by reading the indictment to the special jury because the nature and gravity of the charges were relevant to whether Booth understood the proceedings and could assist his attorneys.
2. An unobjected-to jury-charge claim is subject to the four-prong plain-error test under OCGA § 17-8-58 (b), but Booth failed to establish even an error because the indictment was properly read during the competency hearing.
3. The prior assaults against Booth's former girlfriends were relevant to prove intent for the aggravated-assault charge and therefore satisfied the first prong of OCGA § 24-4-404 (b).
4. The State's argument that the full DNA profile from Vason's rectum was more recent than the partial profile from her vaginal area was permissible because it was a reasonable deduction from the evidence and expert testimony.
5. The felony-murder counts did not merge into the malice-murder count; they were vacated by operation of law. The court vacated the trial court's merger of those counts but did not require resentencing because the predicate felonies were not separately charged and no verdicts were rendered on them, and the sentence was otherwise proper.

KEY QUOTATIONS

“At issue in a competency proceeding is whether a defendant is capable at the time of the trial of understanding the nature and object of the proceedings going on against him and rightly comprehends his own condition in reference to such proceedings, and is capable of rendering his attorneys such assistance as a proper defense to the indictment preferred against him demands.” (at 681)

“Rule 404 (b) is a rule of inclusion, but it does prohibit the introduction of other acts evidence when it is offered for the sole purpose of showing a defendant's bad character or propensity to commit a crime.” (at 682)

“We vacate the merger of the felony murder counts, but because the trial court’s sentence was proper in all other respects, we need not remand for resentencing.” (at 689)

FACTUAL BACKGROUND

Booth was dating Shantle Vason, who had an intellectual disability. After Booth argued with Vason about another man, he made calls using her phone and was later found in her apartment attempting CPR on her severely injured, naked body. Vason suffered extensive blunt-force injuries and died after being removed from life support; DNA testing identified Booth's DNA in a rectal sample and partially in a genital sample. Evidence also showed prior assaults by Booth against two former intimate partners.

PROCEDURAL HISTORY

A DeKalb County grand jury indicted Booth for malice murder, two counts of felony murder, aggravated sodomy, aggravated sexual battery, and aggravated assault. After Booth entered a plea of incompetency, a special jury found him competent. Following a jury trial in February and March 2013, Booth was acquitted of aggravated sodomy and convicted of the other charges. The trial court imposed life sentences, denied Booth's amended motion for new trial on July 24, 2015, and Booth timely appealed.

DISPOSITION

other

REMAND INSTRUCTIONS

None. The court vacated the merger of the felony-murder counts but held that no remand for resentencing was necessary; all other convictions and the sentence were affirmed.

CASES CITED

- Jackson v. Virginia, 443 U.S. 307, 319 (1979)
- State v. Kelly, 290 Ga. 29, 33 (2) (a) (718 SE2d 232) (2011)
- Lewis v. State, 279 Ga. 69, 70 (3) (608 SE2d 602) (2005)
- Black v. State, 261 Ga. 791, 794 (2) (410 SE2d 740) (1991)
- Waldrip v. State, 267 Ga. 739, 743 (6) (482 SE2d 299) (1997)
- Archie v. State, 248 Ga. App. 56, 57 (1) n.3 (545 SE2d 179) (2001)
- State v. Jones, 297 Ga. 156, 158-163 (773 SE2d 170) (2015)
- Bradshaw v. State, 296 Ga. 650, 656-657 (3) (769 SE2d 892) (2015)
- United States v. Covington, 565 F.3d 1336, 1341 (11th Cir. 2009)
- Olds v. State, 299 Ga. 65, 69, 72, 75-76 (786 SE2d 633) (2016)
- United States v. Dothard, 666 F.2d 498, 502-503 (11th Cir. 1982)
- United States v. Beechum, 582 F.2d 898, 911 (5th Cir. 1978)
- United States v. Williford, 764 F.2d 1493, 1497 (11th Cir. 1985)

- Hood v. State, 299 Ga. 95, 101-102 (4) (786 SE2d 648) (2016)
- Brannon v. State, 298 Ga. 601, 606-607 (4) (783 SE2d 642) (2016)
- United States v. Delgado, 56 F.3d 1357, 1365 (11th Cir. 1995)
- United States v. Diaz-Lizaraza, 981 F.2d 1216, 1224-1225 (11th Cir. 1993)
- United States v. Sterling, 738 F.3d 228, 239 (11th Cir. 2013)
- United States v. Ellisor, 522 F.3d 1255, 1267-1268 (11th Cir. 2008)
- United States v. Matthews, 431 F.3d 1296, 1311 (11th Cir. 2005)
- United States v. Parr, 716 F.2d 796, 804-805 (11th Cir. 1983)
- United States v. Pollock, 926 F.2d 1044, 1048 (11th Cir. 1991)
- Guyse v. State, 286 Ga. 574, 577 (2) (690 SE2d 406) (2010)
- Miller v. State, 275 Ga. 730, 732 (1) (571 SE2d 788) (2002)
- Young v. State, 332 Ga. App. 361, 362 (2) (772 SE2d 807) (2015)
- Sims v. State, 296 Ga. App. 461, 463 (1) (675 SE2d 241) (2009)
- Adams v. State, 283 Ga. 298, 302 (3) (658 SE2d 627) (2008)
- Scott v. State, 290 Ga. 883, 885 (2) (725 SE2d 305) (2012)
- Johnson v. State, 296 Ga. 504, 508 (4) (769 SE2d 87) (2015)
- Favors v. State, 296 Ga. 842, 847-848 (5) (770 SE2d 855) (2015)
- Atkinson v. State, 301 Ga. 518 (801 SE2d 833) (2017)